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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/289,044	04/09/1999	ANDREW H. SOLL	1726-001	8196

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EXAMINER
RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
2166	

DATE MAILED: 03/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/289,044	SOLL ET AL.	
	Examiner	Art Unit	
	Sam Rimell	2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 7-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 7-22 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

SAM RIMELL
PRIMARY EXAMINER
AU 2166

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 7-18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Iliff ('964).

Claim 7: Iliff discloses the steps of receiving several different patient identifiers from a patient (438 in FIG. 6 and 336-337 in FIG. 4C) as well as complaints (436 in FIG. 6). This forms preliminary information which is stored in a memory (184 in FIG. 2B). Based on the recorded complaints, specific questions are selected (624 in FIG. 11) which are directed to the patient, who answers the questions. The preliminary information, combined with the answers to the questions, are combined into a patient medical record database (254 in FIG. 22b). Each medical record in the database constitutes a formatted report. Based upon the formatted report, specific medical assessments in the form of disease diagnoses are determined and then imported into the individual patient's report located in the database (steps 1174-1178 in FIG. 22B, disease database in 262 in FIG. 22B). This report may then be forwarded to a physician if further

analysis is warranted (co. 21, lines 27-35). The physician can change or update or update any of the data which is presented to the physician.

Claim 8: The patient can be asked follow up questions (626 in FIG. 11) with both questions and answers recorded in the inidividual patient's report.

Claim 9: The follow-up questions all pertain to the same subject matter (health of the patient) and are thus unimodal.

Claim 10: The questions may include questions about a patient's age (336-337 in FIG. 4C).

Claims 11-12: There is no patentable distinction between "triage questions" and "screening questions", since triage, by definition, is a screening process. Any of the questions posed within the disclosure of Iliff can be viewed either as "triage questions" or "screening questions".

Claim 13: Iliff discloses both questions and returned answers as being composed of concatenated text (col. 13 line 38).

Claim 14: Text strings can be used to form confirmation messages, which are transmitted to the patient (col. 12, lines 15-23). The patient can respond to the message (col. 12, line 19).

Claim 15: A telephone can be used to communicate with the patient (124 in FIG. 1).

Claim 16: The information in the patient's individual report can be analyzed using Booelan logic (as an example, see the "no" logical operators in FIG. 4D, suggesting the Boolean operator "not").

Claim 17: The patient communicates with an interactive graphic interface (computer 118 in FIG. 1).

Claim 18: Anything that the patient views on the video monitor of computer 118 (seen in FIG. 1) constitutes an image.

Claim 20: The patient can communicate with the system using voice signals (see telephone 124 in FIG. 1 and col. 6, lines 43-45).

Claims 19, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iliff ('964).

Claim 19: Using a touch screen computer as the computer (118 in FIG. 1) to permit communications between the patient and the system would have been obvious to one of ordinary skill in the art as a choice of well known computer design.

Claims 21-22: Analyzing the patient's quality of life in addition to analyzing the patient's health condition would have been obvious to one of ordinary skill in the art as a choice of design for a health care monitoring system.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.

Sam Rimell
Primary Examiner
Art Unit 2166

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